UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF RHODE ISLAND

LORI ZARLENGA BLAQUIERE
Plaintiff

C.A. No. 06-534 ML

V.

EDWARD A. CHARBONEA, individually
and in his capacity as Chief of Police of the
North Kingstown Police Department, et al.,
Defendants

PLAINTIFF'S MOTION FOR EXTENSION OF TIME FOR SERVICE OF PROCESS ON THE DEFENDANTS

COMES NOW , Lori Zarlenga Blaquiere (Plaintiff) and Plaintiffs hereby moves this Court, to grant Plaintiff a 60 day extension of Time to serve all defendants.

As the basis for this motion, the Plaintiffs submits herewith Plaintiffs Memorandum of law in Support of Plaintiffs Motion for an Extension of Time to serve defendants.

Respectfully submitted on this 4th day of April 2007.

Lori Zarlenga Blaquiere
Pro Se
101 Border Street
West Warwick, R.I.02893
Phone: (401) 821-3960

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day April 2007, I served a copy of the within Plaintiffs Motion for Extension of Time to serve defendants to, Marc DeSisto, Desisto Law , 211 Angell St. P.O. Box 2563, Providence, R.I. 02906-2563, Rebecca Tedford Partington, Attorney General's Office, 150 South Main Street, Providence, R.I. 02903 by overnight Express mail, postage prepaid.

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LORI ZARLENGA BLAQUIERE
Plaintiff

C.A. No. 06-534 ML

V.

EDWARD A. CHARBONEA, individually and in his capacity as Chief of Police of the North Kingstown Police Department, et al.,
Defendants

PLAINTIFF'S MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S MOTION FOR EXTENSION OF TIME FOR SERVICE OF PROCESS

Plaintiff states that a 60 day extension of time is necessary to serve summons and Plaintiff's complaint with attached exhibits and file the proof of service with the court on the following defendants, *Rhode Island State Police, Federal Bureau of Investigation, Department of Justice, United States Attorney's Office , TGIFRIDAYS Inc., Carlson Restaurant Worldwide,* *Robert G. Dinwoodie* Chairman of the Department of Emergency Medicine at Kent County Memorial Hospital , *Kent County Memorial Hospital ,* *John R. Pagliarini*, State Director for Senator Lincoln Chafee, *Lincoln D. Chafee,* former United States Senator of Rhode Island, *William Murphy*, Speaker of the House for the Governor of the State of Rhode Island, *Russell A. Bertrand* President of Cranston Gun & Coin, , *Sean R. Bertrand* Vice President of Cranston Gun & Coin, , *Jim Marshall* Assignment Manager for ABC Channel 6 News Station, *Matt Pitzer*, Assistant News Director for NBC WJAR Channel 10 News Station , *WPRI Channel 12 News Station* , *Showa Denko K.K.* and *Showa Denko America, Inc.* ,*United States Attorney General Alberto Gonzales.*

Plaintiff states that a 60 day extension of time for service of process on the above mentioned defendants is necessary for the following reasons:

1. Plaintiff states that Plaintiff filed her complaint in this court on December 7, 2006.

2. Plaintiff states that Plaintiff cannot meet the 120-day (April 5, 2007) deadline to serve summons and Plaintiff's complaint with attached exhibits and file the proof of service with the court with regard to above mentioned defendants.

3. Plaintiff states that Plaintiff has completed service of process and summons returned executed by Plaintiff regarding the following defendants, defendant Gregory Johnson, defendant Patrick Kelly, defendant Tomas Bogusz, defendant Alan J. Valliere, defendant Joseph E. Mee, defendant Edward A. Charbonea, defendant Robert D. Desjarlais, defendant Eric Yankee, defendant Nicholas Murphy, defendant Holly Steves, defendant Donald L.Carcieri, defendant Patrick Lynch, defendant Stacey Veroni, defendant Alan Goulart, defendant Arthur Kershaw.

4.Plaintiff states that on April 4, 2007, Plaintiff sent a copy of summons and Plaintiffs December 7, 2006 complaint with exhibits 1-31 by certified mail to the Attorney General of the United States Alberto Gonzales at Department of Justice 950 Pennsylvania Avenue, NW, Room 4400 Washington, DC 20530-0001, **(See attached copy of certified mail receipt postmarked April 4, 2007).**

5. Plaintiff states that on April 2, 2007, Plaintiff presented original summons to the clerk of court for signature and seal to be issued and returned to the plaintiff for service of process on the following defendants, *Rhode Island State Police, Federal Bureau of Investigation, Department of Justice, United States Attorney's Office , TGIFRIDAYS Inc., Carlson Restraunt Worldwide, Robert G. Dinwoodie* Chairman of the Department of Emergency Medicine at Kent County Memorial Hospital , *Kent County Memorial Hospital , John R. Pagliarini*, State Director for Senator Lincoln Chafee, *Lincoln D. Chafee,* former United States Senator of Rhode Island, *William Murphy*, Speaker of the House for the Governor of the State of Rhode Island, *Russell A. Bertrand* President of Cranston Gun & Coin, , *Sean R. Bertrand* Vice President of Cranston Gun & Coin, , *Jim Marshall* Assignment Manager for ABC Channel 6 News Station, *Matt Pitzer*, Assistant News Director for NBC WJAR Channel 10 News Station , *WPRI Channel 12 News Station* , *Showa Denko K.K.* and *Showa Denko America, Inc. ,United States Attorney General Alberto Gonzales,****(See attached copy of the above mentioned summons issued by this court on April 3, 2007).***

6. Plaintiff states that this Court deliberately delayed Plaintiff from serving the defendants in this case in a scheming manner to obstruct and cause harm to Plaintiff's case.

7.Plaintiff states that Plaintiff presented summons to the clerk of this Court for signature and seal.

8. Plaintiff states that the clerk signed the summons. However, the clerk of this Court deliberately did not place the seal on the summons for service on each defendant.

9.Plaintiff states that the clerk of this court filed the summons mentioned herein on January 29, 2007 and mailed the summons to Plaintiff without the seal of this court.

10. Plaintiff states that it is standard procedure for a clerk to sign, seal, and issue a summons for service on the defendants, (Rule 4.(a) and 4 (b) of the Federal Rule of Civil Procedure).

11. Plaintiff states that Plaintiff has in her possession the original summons with the signature of the clerk that contains no seal from this Court.

12. Plaintiff states that this Court (not on this Courts own initiative) reissued summons, (Docket #2) on February 1, 2007 with the signature and seal of this Court.

13.Plaintiff states that Plaintiff was informed by that clerk of this Court that it is standard procedure for this Court to place the seal of this court on summons for each defendant and that it is unusual and rare for this court to have omitted the seal on a summons presented to this court.

14. Plaintiff states that Plaintiff will suffer serious irreparably harm and prejudice to Plaintiff and Plaintiff's case if this Court does not grant Plaintiffs a 60 day extension of time to serve the defendants.

15.Plaintiff states that the Defendants will not suffer any prejudice as a result of granting Plaintiff's a 60 day extension of time for service of process on the defendants, other than this Court and the defendants prejudicing Plaintiff and Plaintiff's case.

16. Plaintiff is pro se and Plaintiff is without counsel. Plaintiff does not have any advanced academic degree, Plaintiff is not experienced with the law or legal procedures.

17. Plaintiff states that the defendants have attempted to evade service and have caused delay by instructing the legal process server to delay serving the defendants and delay supplying Plaintiff with proof of service and information necessary in serving the defendants. As a result, Plaintiff is in the process of finding a new legal processor to serve the defendants, **(See attached March 26, 2007 letter to legal process server from Plaintiff).**

18. Plaintiff states that Plaintiff received faulty advice from the legal process server and the U.S. Attorney's office in an attempt to deliberately delay service on the defendants.

19. Plaintiff states that Plaintiff has been diligent and Plaintiff should not be held responsible for the intentional delays of this court and the delays of the legal process server, and the defendants attempt to obstruct and evade service of process .

20.Plaintiff states that in view of the fact that Ms. Zarlenga Blaquiere's is without counsel and Plaintiff's physical condition, Eosinophilia Myalgia Syndrome and for reasons mentioned herein, Plaintiff cannot meet the April 5, 2007 deadline to serve the defendants. Therefore, Plaintiff request that this Court grant Plaintiff a 60 day extension of time for service of process on the defendants, **(See attached Dr. Terry Heiman-Patterson medical report).**

21. Plaintiff states that Plaintiff's life being in danger and being targeted by law enforcement in connection with Showa Denko K.K. has intensified, since Plaintiff filed Plaintiff's December 7, 2006 complaint against the Defendants in the above-entitled matter. As a result, it has crippled Plaintiffs ability to serve all the defendants and respond to matters of this Court

22. Plaintiff states that Plaintiff has been deprived of her constitutional rights and due process and a fair decision maker in this Court among others.

23. Plaintiffs states that this court including court personnel has singled Plaintiff out in a deliberate attempt to obstruct and sabotage plaintiffs case inorder to protect the defendants and defense counsel in this case.

ARGUMENT AND AUTHORITIES

Rule 4 (m) provides :

(m) Time Limit for Service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

This rule instructs courts to provide additional time for service in cases where good cause for the delay is shown. 4Bwright & Miller; Federal Practice and Procedure: Civil 3d 1137, p. 341 (2002). Courts have found good cause to exist when a defendant attempts to avoid service, Hibernia Nat. Bank v. Carner, 758 F. Supp. 382 (D. La. 1991), and when the plaintiff is *pro se*, Poulakis v. Amtrak, 139 F.R.D. 107 (D. Ill. 1991) (*Pro se* plaintiff is entitled to a certain degree of leniency regarding service of process so as to ensure that his case is justly resolved on the merits rather than on the basis of procedural technicalities). But Rule 4 (m) does not necessarily require a showing of good cause.

The Advisory Committee Notes to Rule 4 (m) provide in part:

The new subdivision [(m) of Rule 4] explicitly provides that the court shall allow additional time if there is good cause for the plaintiff's failure to effect service in the prescribed 120 days, and authorizes the court to relieve a plaintiff of the consequences of an application of this subdivision *even if there is no good cause shown.*

1993 Advisory Committee Notes (Emphasis added). Also see Melton v. Tyco Valves & Controls, Inc., 211 F.R.D. 288, 289 (D. Md. 2002) (The new Rule 4 (m) "authorizes the court to relieve a plaintiff of the consequences of an application of the [the 120-day service rule] even if there is no good cause shown.") and Husowitz v. American Postal Workers Union, 190 F.R.D. 53 (D.C.N.Y. 1999) (A District Court may, in its discretion, extend the time for service of process even if the plaintiff fails to show good cause. If the plaintiff shows good cause, then it is mandatory.) Even the Supreme Court has noted in dicta good cause need not be shown Henderson v United States, 517, U.S. 654, 663, 116 S. Ct. 1638, 1643, 134 L. Ed. 2d 880 (1996) ("In 1993 amendments to the Rules, courts have been accorded discretion to enlarge the 120-day period, even if there is no good cause shown'.") (Ginsberg, J., citing Advisory Committee's Note.) Some courts have found good cause where "the plaintiff's failure to complete service in timely fashion is a result of the conduct of a third person, typically the process server, the defendant has evaded service of the process or engaged in misleading conduct, the plaintiff has acted diligently in trying to effect service or there are understandable mitigating circumstances, or the plaintiff is proceeding pro se or in forma pauperis," See 4B Wright & Miller Federal Practice and Procedure Civil 3d 1137 at 342 and 352 (2002).

In 1993 amendments to the rules, courts have been accorded discretion to enlarge the 120 day period " even if there is no good cause shown." See Advisory Committee's Notes on Fed. Rule Civ. Proc. 4, 28 U.S.C. App., p. 654.

And tellingly, the text of Rule 4 sets out, as "[a] specific instance of good cause," ibid., allowance of " a reasonable time" to " cur[e] the failure to serve multiple officers... of the United States if the plaintiff has effected service on either the United States attorney or the Attorney General" within the prescribed 120 days. Fed. Rule Civ. Proc. (i) (3).

In this case the plaintiff has shown good cause for reasons mentioned herein.

Plaintiffs request that this court expedite the filing and ruling of Plaintiffs Motion for Extension of Time.

Plaintiff seeks leniency from this court. Plaintiff is at a disadvantage, since Plaintiff is not an attorneys and for reasons mentioned herein.

Plaintiff request from this court leniency based on Plaintiff's Pro Se status and to ensure a miscarriage of justice does not continue to occur in Plaintiff's case . Pro Se litigants must be ensured meaningful access to the courts, Bounds v. Smith 430 U.S. 817, 823, (1977).Pro Se pleadings are held to less stringent standards than those prepared by attorney, Haines v. Kerner 404 U.S. 519, 520-521 (1972). In Walter Process Equipment v. Food Machinery , 382 U.S. 172 (1965) it was held in a " motion to dismiss, the material allegations of the complaint are taken as admitted and true.

Where a Plaintiff pleads Pro Se in a suit for protection of civil rights, the court should endeavor to construe Plaintiffs pleading without regard to technicalities, Picking v. Pennsylvania Railway (151 F2d. 240) Third Cir. Court of Appeals.

39. In Puckett v. Cox, it was held that Pro Se complaint requires a less stringent reading than one drafted by a lawyer, (456 F2d 233 (1972 Sixth Circuit USCA) said Justice Black in Conley v. Gibson, 355 U.S. 41 AT 48 (1957) "The Federal Rules rejects the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." According to Rule 8 (f) FRCP all pleadings shall be construed to do substantial justice".

Plaintiff states that if this court does not grant Plaintiffs a 60 day extension of time to serve defendants, this court allows then also to stand violations of the First, Fifth, Ninth, and Fourteenth amendments of the U.S. Constitution which would certainly not be in the general interest or good.

First Amendment in pertinent part provides:

The First Amendment guarantees the freedom of worship, of speech, of the press, of assembly, and of petition to the government for redress of grievances.

Fifth Amendment in pertinent part provides:

" No person shall ... ; ... ; ... , nor be deprived of life, liberty, or property, without due process of law; ...."

Ninth Amendment in pertinent part provides:

" The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

Fourteenth Amendment in pertinent part provides:

no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property, with out due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

For all the foregoing reasons, Plaintiffs request that this Court grant Plaintiffs a 60 day extension of time for service of process on the defendants.

Respectfully submitted on this 4th day of April 2007.

Lori Zarlenga Blaquiere
Pro Se
101 Border Street
West Warwick, R.I.02893
Phone: (401) 821-3960

CERTIFICATE OF SERVICE

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